UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

FILED
JUN 23 2014
CLERK, US DISTRICT COURT
NORFOLK, VA

REGINA M. ZARRELLI,

Plaintiff,

v. ACTION NO. 2:13cv447

CITY OF NORFOLK, et al.,

Defendants.

FINAL ORDER

On August 12, 2013, the Plaintiff, Regina M. Zarrelli, filed a Complaint alleging constitutional due process violations and defamation under Virginia state law. ECF No. 1. On September 11, 2013, the Defendant, the City of Norfolk, filed a Motion to Dismiss. ECF No. 4. On October 8, 2013, the Motion was referred to Magistrate Judge Douglas Miller for a Report and Recommendation ("R&R"), ECF No. 8, which was filed on October 31, 2013. ECF No. 9. In the R&R, Magistrate Judge Miller recommended granting the Motion to Dismiss. The Plaintiff filed an objection to the R&R on November 14, 2013. ECF No. 10. Before the court could rule on the objection to the R&R, the Plaintiff filed a Motion for Leave to File an Amended Complaint and a proposed Amended Complaint, ECF No. 14, which leave the court granted by Order of February 4, 2014. ECF No. 18. The court also

sustained the objection to the first R&R in that same Order. See id.

In her Amended Complaint, ECF No. 19, the Plaintiff alleged the same claims as in her original Complaint, with no substantive changes. She did add Mr. Gregory Underwood, the City of Norfolk's Commonwealth Attorney, as a Defendant. On February 25, 2014, the City of Norfolk filed a Motion to Dismiss, ECF No. 21, and on March 18, 2014, Mr. Underwood filed a Motion to Dismiss. ECF No. 24. On March 18, 2014, Mr. Underwood requested a hearing on his Motion to Dismiss. ECF No. 26. Both Motions to Dismiss were referred to United States Magistrate Judge Douglas E. Miller by Order of March 21, 2014, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). ECF No. 27. On May 7, 2014, Magistrate Judge Miller held a hearing on both Motions to Dismiss. ECF No. 32.

On May 22, 2014, the Magistrate Judge filed an R&R, and again recommended granting the City of Norfolk's Motion to Dismiss, and also recommended granting Mr. Underwood's Motion to Dismiss. ECF No. 33. By copy of the R&R, the parties were advised of their right to file written objections thereto. On June 9, 2014, the Plaintiff filed her Objections to Magistrate Judge Miller's Report and Recommendation, ECF No. 34, and

requested a hearing to address her objections on June 17, 2014. ECF No. 36.[1] The Plaintiff's objections to the R&R reiterate the same arguments presented in her original Complaint and Amended Complaint.

Pursuant to Rule 72(b) of the Federal Rules of Civil Procedure, the court, having reviewed the record in its entirety, shall make a de novo determination of those portions of the R&R to which the Plaintiff has specifically objected. Fed. R. Civ. P. 72(b). The court may accept, reject, or modify, in whole or in part, the recommendation of the magistrate judge, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1).

The court, having examined the Plaintiff's Objections to the R&R, and having made de novo findings with respect thereto, overrules the Plaintiff's Objections, and does hereby adopt and approve in full the findings and recommendations set forth in the Report and Recommendation of the United States Magistrate Judge filed on May 22, 2014. Accordingly, the court **GRANTS** the Defendants' Motions to Dismiss.

[1] After full examination of the briefs and the record, the court has determined that a hearing is unnecessary, as the facts and legal arguments are adequately presented, and the decisional process would not be aided significantly by oral argument. See Fed. R. Civ. P. 78(b); Local Civ. R. 7(J).

The Clerk shall forward a copy of this Final Order to counsel for the parties.

IT IS SO ORDERED.

/s/
Rebecca Beach Smith
Chief
United States District Judge

REBECCA BEACH SMITH
CHIEF UNITED STATES DISTRICT JUDGE

June 23, 2014